

FORM 26. Docketing Statement**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT****No. 2016-1498****DAREK J. KITLINSKI****v.****DEPARTMENT OF JUSTICE****DOCKETING STATEMENT**

This Docketing Statement must be completed by all counsel and filed with the court within 14 days of the date of docketing. When the United States or its officer or agency is a party, this Docketing Statement must be completed by all counsel and filed with the court within 30 days of docketing. All questions must be answered or the statement will be rejected.

Name of the party you represent DAREK J. KITLINSKI

Party is (select one) Appellant/Petitioner Cross-Appellant
 Appellee/Respondent Intervenor

Tribunal appealed from and Case No. Merit Systems Protection Board SF-4324-15-088-I-1

Date of Judgment/Order November 16, 2015 Type of Case USERRA Discrimination Appeal

Relief sought on appeal
Reversal and Remand for Hearing on the Merits

Relief awarded below (if damages, specify) NONE

Briefly describe the judgment/order appealed from Denial of Jurisdiction over Appeal

FORM 26. Docketing Statement (continued)

Nature of judgment (select one)

Final Judgment, 28 USC 1295

Rule 54(b)

Interlocutory Order (specify type) _____

Other (explain; *see* Fed. Cir. R. 28(a)(5)) _____

Name and docket number of any related cases pending before this court plus the name of the writing judge if an opinion was issued None

Brief statement of the issues to be raised on appeal Whether the MSPB erred in ruling that

possible installation and use of tracking device during pendency of USERRA Appeal is not an act of discrimination, retaliation and reprisal

Have there been discussions with other parties relating to settlement of this case?

Yes No

If "yes," when were the last such discussions?

Before the case was filed below?

During the pendency of the case below?

Following the judgment/order appealed from?

If "yes," were the settlement discussions mediated? Yes No

If they were mediated, by whom? _____

FORM 26. Docketing Statement (continued)

Do you believe that this case may be amenable to mediation? Yes No

If you answered no, explain why not _____

Provide any other information relevant to the inclusion of this case in the court's mediation program. _____

I certify that I filed an original and one copy of this Docketing Statement with the Clerk of the United States Court of Appeals for the Federal Circuit and served a copy on counsel of record, this 25th day of April, 2016

by: Electronic mail
(manner of service)

Kevin Byrnes
Name of Counsel

/s/ *Kevin C. Byrnes*
Signature of Counsel

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